



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/583,176

03/05/2008

Michael D. McMahon

1074-024US02/PB0010031.08

8237

53049 7590 05/20/2011

SHUMAKER & SIEFFERT, P.A.

1625 Radio Drive

Suite 300

St. Paul, MN 55125

EXAMINER

PATEL, NATASHA

ART UNIT

PAPER NUMBER

3766

NOTIFICATION DATE

DELIVERY MODE

05/20/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pairedocketing@ssiplaw.com

Office Action Summary	Application No. 10/583,176	Applicant(s) MCMAHON ET AL.	
	Examiner NATASHA PATEL	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :1/28/10;4/20/10;6/16/10;8/4/10;1/19/11;5/3/11.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 7 recites the limitation "the patient lead cable port" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 11 recites the limitation "the bag" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

4. Claims 8-11 are objected to because of the following informalities: Claims 8-11 should depend from independent Claim 7, not Claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covey et al. (PG Pub. 2004/0162586) in view of Edwards (PG Pub. 2004/0049233).
7. Regarding Claim 1, Covey discloses a patient parameter monitoring pod, comprising:

Art Unit: 3766

a portable housing (see housing 12) containing a power supply (see par. 26);
a patient parameter module (see electrodes 30) connectable to a patient via lead cables (see leads 32) to collect patient data, the patient data including at least one vital sign (see heart rhythms; par. 28);
a transceiver adapted to wirelessly transmit electrode data to a defibrillator (see par. 42 and 43, figure 2); and

a data port (see data port 26) adapted to supply the patient data via a direct electrical connection to the defibrillator (see par. 23). Covey does not disclose that the transceiver transmits patient data. However, Edwards discloses a similar portable AED where the status of the electrodes can be communicated wirelessly or through a direct electrical connection or both (see par. 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize multiple options for communication of patient data as well since Edwards teaches that having both components allows for continued communication despite disconnection of the hard wired component (see par. 72).

8. Regarding Claims 2 and 14, Covey discloses multi-lead ECG data (see par. 24).

9. Regarding Claims 3 and 15, Covey discloses the portable housing supports a display area (see displays 20; par. 22) to visually display the patient data.

10. Regarding Claims 5, 9, and 17, Covey discloses housing includes visual indicators (see par. 22).

11. Regarding Claims 6-7 and 18, Covey discloses including a carrying handle (see handle 14) extending from the housing proximate a patient lead cable port that permits connection of the lead cables to the pod, the carrying handle positioned to protect the

Art Unit: 3766

patient lead cable port and the patient lead cables attached to the port from direct impact (see Figure 1). The examiner considers the port and cables are protected at least from one side.

12. Regarding Claim 13, modified Covey discloses a patient parameter monitoring pod system, comprising:

a portable patient monitoring pod (see Figure 1) and a component storage bag (see pouch 31), the pod having an outer housing (see housing 12), a patient parameter module (see electrodes 30), and a data port (see port 26), the patient parameter module connectable to a patient via lead cables (see leads 32) to collect patient data, the patient data including at least one vital sign (see heart rhythms; par. 28), the data port being exposed on the housing (see Figure 1) and adapted to supply the patient data via a direct electrical connection to a defibrillator (see par. 23), the component storage bag having pockets, the storage bag having openings exposing the data port and permitting passage therethrough of the patient lead cables (see Figure 1). The examiner considers that the storage bag is *capable* of holding the pod and the components of the pod since it is essentially just a re-sealable pouch [emphasis added]. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

13. Regarding Claims 4, 8, and 16, Covey discloses that the components can be coupled to one another directly or through a network. When there is a design need or

Art Unit: 3766

market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show it was obvious under 35 USC 103 (KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1742, 82 USPQ2d 1385, 1396 (2007)). Although, Covey does not go into details about specific interconnection mechanisms, it would have been obvious to use some type of interconnect connector to connect the pod to another patient monitoring pod (see Figure 2 and par. 68).

14. Regarding Claims 10 and 19, Covey discloses separate leads 32, but does not disclose a lead cable comb separator. It would have been a matter of obvious design choice to a person of ordinary skill in the art at the time of the invention to use a comb separator because Applicant does not disclose that a comb separator provides an advantage or special purpose over simply using the sheaths as a separator.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATASHA PATEL whose telephone number is (571)272-5818. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3766

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Natasha N Patel/
Examiner, Art Unit 3766

/CARL H LAYNO/
Supervisory Patent Examiner, Art
Unit 3766